In the United States District Court
for the Northern District of Ohio
Eastern Division

Donald Ray Williams C/o Pat Horner, Attorney 412 14th Street Toledo, OH 43604	Case No. Judge
Plaintiff	Complaint with Jury Demand Endorsed Hereon
v.	
Dave Marquis, Warden Richland Correctional Institution 1001 Olivesburg Rd. Mansfield, OH 44905 And	Patricia Horner, S. Ct. #0039912 412 14th Street Toledo, OH 43604 (419) 699-6163 Attorneypath@gmail.com Counsel for plaintiff

Health Care Administrator (HCA)
(Full name and address presently unknown)
C/o ODRC, RiCI
1001 Olivesburg Rd.
Mansfield, OH 44905
In her/his professional and individual capacity

And
Carla Bernard, Unit Manager
c/o ODRC, RiCI
1001 Olivesburg Rd.
Mansfield, OH 44905
In her professional and individual capacity

And
John Doe, 1-5
(Full names and addresses are presently unknown)

c/o ODRC, RiCI
1001 Olivesburg Rd.
Mansfield, OH 44905
In their professional and individual capacity

Defendants

****

Now comes plaintiff, through his Attorney, and for his causes of action alleges the following.

PARTIES

1. Plaintiff Donald Ray Williams (hereinafter, at times, Williams) was, throughout the time giving rise to the events set forth herein, an inmate at Richland Correctional Institution (RiCI).

2. At all times relevant hereto, Defendant Dave Marquis was the Warden at RiCI, which is located in Mansfield, Richland County, Ohio

3. At all relevant times here and upon information and belief, Defendant Health Care Administrator (hereinafter HCA) (whose full name is unknown presently) is an employee of ODRC worked at RiCI while in the course of her/his employment at RiCI acted with the authority of, on behalf of and under color of state law as an employee, staff, corrections officer and/or agent of RiCI and is being sued in his/her official capacity and his/her individual capacity.

4. At all times relevant hereto, Defendant John Doe 1-5 whose full names and addresses are unknown to plaintiff presently, were employees, agents, personnel of RiCI, acted with the authority of, on behalf of defendant Warden Marquis at RiCI while in the course of his/her employment as employee, staff, medical personnel, and/or agent of RiCI are being sued here in his/her official capacity as a health care provider and/or employee, agent and is also being sued in his/her individual capacity.

5. At all relevant times here and upon information and belief, Defendant Carla Bernard, a Unit Manager at RiCI (hereinafter Bernard) was an employee of ODRC worked at RiCI while in the course of her employment at RiCI acted with the authority of, on behalf of and under color of state law as an employee, staff, corrections officer and/or agent of RiCI and is being sued in her official capacity and her individual capacity.

6. Defendants Warden Marquis, the HCA, Doe 1-5, and Bernard, were, at all times relevant to this action, employed by/or acted as an agent of RiCI and were acting in the scope of his/her employment and under color of law, to wit, under the color of the statutes, ordinances, regulations, policies, customs, practices and usages of the State of Ohio.

7.Defendant Warden Marquis was, at all times relevant to this action, duly appointed as Warden and acting in the scope of his employment and under color of law, to wit, under the color of the statutes, ordinances, regulations, policies, customs, practices and usages of the State of Ohio.

8. The State of Ohio is the public employer of defendants.

9. RiCI is a state prison operated by the Ohio Department of Rehabilitation and Correction (ODRC) who employs defendant Warden Marquis to oversee the operation of the institution, including medical care, in accordance with the United States Constitution, the Ohio Constitution, the laws, ordinances, regulations, policies, customs and usages of the State of Ohio.

JURISDICTION AND VENUE

10. Plaintiff hereby incorporates by reference here paragraphs 1-9 above.

11. This Court has original jurisdiction pursuant 28 U.S.C. §1331 over Plaintiff’s causes of action as these arise under the United States Constitution and federal law, 42 U.S.C. §1983.

12. This Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367 over Plaintiff's State law causes of action that form part of the same case or controversy as the claims acquiring original jurisdiction.

13. Venue lies in the United States District Court for the Northern District of Ohio because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Richland County, Ohio, which lies in the jurisdiction of this Court, 28 U.S.C. §1391(b)(2).

14. Divisional venue is in the Eastern Division because the events leading to the claims for relief arose in Richland County, Ohio.

FACTUAL ALLEGATIONS

15. Plaintiff hereby incorporates by reference as if fully rewritten here paragraphs 1-14 above.

16. Plaintiff had a heel spur in his right heel for a long period of time, approximately 18 months. From about from mid-2014 through June 2015 he sought medical care and treatment for this from the Richland prison's medical personnel, including being referred to the podiatrist, Dr. Kidd (whose first name is presently unknown) that visited the prison regularly.

17. The RiCI physician tried a series of 3 injections in the heel to address the pain and inflamation, which gave temporary relief only. Dr. Kidd informed plaintiff that the conservative medical treatment was not resolving the heel spur, that he needed surgery on it.

18. Plaintiff saw Dr. Granson as well for the heel spur and plaintiff was told he needed surgery. The request for surgery was filed using the prison administrative procedures, including the Collegial Review but was denied. This happened several times.

19. Plaintiff was transferred to North Central Correctional Complex (NCCC) in September 2015, and to date he has not surgery on the right heel.

20. While at RiCI Plaintiff filed several kites, Informal grievances, health service requests about the surgery for his heel, for more aggressive medical care and treatment of the heel spur, but nothing was done.

21. Plaintiff has suffered extreme pain, anxiety, emotional distress, difficulty walking and loss of enjoyment of life.

22. Defendants Warden Marquis, the HCA, Doe 1-5 acted with deliberate indifference in their proper medical care and treatment to plaintiff's serious medical condition.

23. On or about June 11, 2015 Plaintiff, while still an inmate at RiCI, was at Franklin Medical Center (FMC) for an afternoon medical appointment. He was transported there and back to the prison by RiCI staff.

24. Upon his return to RiCI late in the afternoon, he was informed that on June 11, 2015 at approximately 2:30 p.m., he had violated three Administrative Rules, including AR-(14). He was written up for those, was given a copy of the accusations set forth in the Conduct Report and sent to segregation. Plaintiff learned that defendants Bernard and Doe 1-5 were responsible for making the accusations.

25. Plaintiff remained in segregation on these charges for about 13 to 14 weeks.

26. During those 13 to 14 weeks, plaintiff drafted his defense and responses to the accusations which were he was not at RiCI at 2:30 p.m. on June 11, 2015, instead he was at FMC. Plaintiff requested that the prisoner transport log and hospital pass be available for the Rules Infraction Board hearing but that request was not approved. As a result of this, plaintiff was found in violation of AR-(14). Plaintiff appealed the decision, but lost. He also filed numerous kites, informals and appeals.

27. Plaintiff has suffered emotional distress, humiliation, anxiety, fear, and being treated as if he was a high security risk as a result of that wrongful charge and decision.

28. Defendants Warden Marquis, Bernard, Doe 1-5 acted maliciously and violated his right to due process.

29. At all times here, Donald R. Williams, an inmate under the custody and care of the State of Ohio, had constitutional substantive due process rights as set forth in the United States Constitution, specifically the 5th and 14th Amendments and had a constitutional right to be free of cruel and unusual treatment which incorporates the right to receive proper and timely medical care and treatment for serious medical needs set forth in the United States Constitution, specifically the 8th Amendment.

30. At all times herein, all defendants were acting under color of law, ordinances, rules, and regulations of the United States and the State of Ohio.

31. All these defendants maintained a policy, practice and custom of not providing sufficient training, education and /or hiring practices to ensure that plaintiff and other inmates were treated by medical personnel that provided medical care and treatment that met not only State minimum requirements but also conformed to accepted medical care in a community.

32. All Defendants knew of their medical personnel's failure to treat inmates for serious medical conditions, including plaintiff's heel spur. These Defendants knew of their medical personnel's perfunctory medical treatment to inmates for serious medical conditions, including plaintiff's. These defendants were deliberately indifferent to the failure to treat plaintiff and other inmates and/or the perfunctory treatment of inmates for serious medical condition.

33. Defendants maintained a policy, practice and custom of not providing timely, adequate and/or

proper medical treatment to inmates, including plaintiff. This led to all defendants failing to discourage further constitutional violations under color of law on the part of its medical personnel, staff and/or agents and/ or independent contractors.

34. As a result of the above-described policies, practices, and/or customs defendants' employees, staff, agents, independent contractors, including defendants Warden Marquis, the HCA and Doe 1-5, believed that their actions would not be properly monitored by defendants' supervisory personnel and that misconduct would not be investigated, but would be tolerated.

35. The above-described policies, practices, and/or customs demonstrate a deliberate indifference on the part of defendants as they are inconsistent with ODRC policy, protocol, regulations, rules and are inconsistent with the constitutional rights of persons being held at RiCI, including Mr. Williams'.

36. The above-described policies, practices, and/or customs medical employees, staff, agents, independent contractors, including Defendants Warden Marquis, Doe 1-5, and Carla Bernard believed that their actions would not be properly monitored by defendants' supervisory personnel and that misconduct would not be investigated or sanctioned, but would be tolerated and are inconsistent with the constitutional rights of persons being held at RiCI, including plaintiff's.

37. Defendants maintained a policy, practice and custom of not providing plaintiff and other inmates in plaintiff's position, access to necessary documentation, information, witnesses and/or evidence to be heard and present a defense to serious accusations that were unfounded. This led to all defendants failing to discourage further constitutional violations under color of law on the part of the employees, personnel, staff, agents and/ or independent contractors.

38. The above-described policies, practices, and/or customs demonstrate a deliberate refusal and maliciousness on the part of all defendants to allow plaintiff to be heard fully and defend himself

fully and truthfully regarding the Rules Violations which demonstrates violations of constitutional due process rights of persons being held at RiCI, including plaintiff's.

39. As a result of the above-described policies, practices, and/or customs defendants' employees, staff, agents, independent contractors, including defendants Warden Marquis, Bernard and Doe 1-5, believed that their actions would not be properly monitored by defendants' supervisory personnel and that misconduct would not be investigated, but would be tolerated.

40. As a direct and proximate result of defendants' conduct, plaintiff suffered pain, emotional distress, anxiety, fear, and has experienced loss of enjoyment of life.

COUNT I: 8TH AMENDMENT VIOLATIONS

41. Plaintiff re-alleges and incorporates by reference ¶¶ 1 through 40 as if fully rewritten here.

42. Plaintiff Williams claims damages under 42 U.S.C. §1983 for the injuries set forth above against defendants Warden Marquis, the HCA, and Doe 1-5 for failing to provide him with adequate medical care and treatment in violation of his United States Constitutional rights as set forth in the 8th Amendment prohibiting cruel and unusual treatment.

43. It was the custom, policy and/or practice of Defendants Marquis, the HCA and Doe 1-5 to fail to exercise reasonable care in the hiring of, training of and/or supervision of medical personnel, including staff, employees, agents and independent contractors at RiCI.

44. This led to all defendants inadequately preventing constitutional violations on the part of its medical personnel.

45. As a direct and proximate cause of the acts, omissions, policies and customs of defendants

Warden Marquis, Doe 1-5, the HCA their medical staff, personnel, employees, agents, independent contractors were deliberately indifferent to plaintiff's serious medical needs.

COUNT II: 14TH AMENDMENT VIOLATIONS

46. Plaintiff re-alleges and incorporates by reference ¶¶ 1 through 45 as if fully rewritten here.

47. Plaintiff claims damages under 42 U.S.C. §1983 for the injuries set forth above against defendants Warden Marquis, the HCA, Bernard and Doe 1-5 for violation of his constitutional due process rights under color of law.

48. Plaintiff Donald R. Williams claims damages under 42 U.S.C. §1983 against defendants Warden Marquis, Bernard and Doe 1-5 for denying him his right to information, evidence and/or witnesses that would have allowed him to defend himself fully and properly, all in violation of his constitutional due process rights under color of law.

49. Defendants Warden Marquis, Bernard and Doe 1-5 developed and maintained polices, practices and /or customs exhibiting deliberate indifference, recklessness and maliciousness to the constitutional rights of individuals held at RiCI which caused violations of Plaintiff's constitutional due process rights.

50. It was the policy, custom and/or practice of Defendants Warden Marquis, Bernard and Doe 1-5 to fail to exercise reasonable care in the hiring of, training of and /or supervision of personnel, including staff, employees, independent contractors and /or agents at RiCI.

51. The foregoing led to all defendants inadequately preventing due process constitutional violations on the part of personnel at RiCI.

52. As a result of the above-described policies, practices and/or customs, defendants' Warden Marquis, the HCA, Bernard and Doe 1-5, believed that their actions would not be properly monitored by defendants' supervisory officers and that misconduct would not be investigated or sanctioned, but would be tolerated.

53. The above-described policies, customs and /or practices demonstrate a deliberate indifference, maliciousness, and recklessness on the part of all defendants to the constitutional due process rights of persons being charged with serious rules violations, including plaintiff's.

54. As a direct and proximate cause of the aforesaid acts, omissions, policies and customs of defendants, Plaintiff has suffered physical pain, anxiety, emotional distress, fear, and will continue to do so into the future as a direct and proximate result of all defendants deliberate indifference, maliciousness and recklessness.

Count III: NEGLIGENCE

55. Plaintiff re-alleges and incorporates by reference ¶¶ 1 through 54 as if fully rewritten here.

56. All Defendants their agents, employees, personnel, staff, independent contractors had a duty to plaintiff to ensure that he received reasonable, prompt, adequate medical care and treatment for injuries sustained while he was in their custody.

57. It was reasonable for all defendants their agents, staff, employees, personnel, independent contractors to provide adequate, reasonable, prompt medical care and treatment to plaintiff for the heel sprur and if such care and treatment was not provided it was foreseeable plaintiff Williams would sustain further pain and suffering.

58. All Defendants their agents, personnel, staff, employees, independent contractors failed to provide reasonable, prompt, adequate medical care and treatment to plaintiff for the heel spur despite knowing of the OSU surgeon requested it yet did not timely arrange for surgery.

59. All Defendants their agents, personnel, staff, employees, independent contractors failed to provide reasonable, prompt, adequate medical care and treatment to plaintiff for the ongoing heel spur condition.

60. These defendants' failure was a breach of their statutory and common law duties to plaintiff, who was under their care and custody. This breach was negligence.

61. As a direct and proximate cause of all defendants' negligence, plaintiff suffered extreme pain, anxiety, fear, emotional distress.

WHEREFORE, plaintiff Donald Ray Williams prays for judgment against all defendants, jointly and severally, in Count 1 compensatory and statutory damages in excess of $25,000.00 plus interest, costs and reasonable attorney fees as provided by in 42 U.S.C. Sect. 1988; in Count II compensatory and statutory damages in excess of $25,000.00 plus interest, costs and reasonable attorney fees as provided by in 42 U.S.C. Sect. 1988 and in Count III compensatory and statutory damages in excess of $25,000.00 plus interest, costs and reasonable attorney fees and any other relief this Court finds just and proper.

Respectfully submitted,

/s/ Patricia Horner
Patricia Horner
Counsel for plaintiff

Jury Demand Endorsed

Plaintiff demands a jury on all counts.

/s/ Pat Horner
Pat Horner